



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,166	01/26/2001	Karl Erich Fankhauser	019157-020	8088

24239 7590 09/24/2004

MOORE & VAN ALLEN, PLLC
2200 W MAIN STREET
SUITE 800
DURHAM, NC 27705

EXAMINER

KHATRI, ANIL

ART UNIT	PAPER NUMBER
----------	--------------

2124

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,166

Applicant(s)

FANKHAUSER ET AL.

Examiner

Anil Khatri

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-14 are rejected under 35 U.S.C. 101 because they disclose a claimed invention that is an “abstract idea” as defines in the case *In re Warmerdam*, 33, F.3d 1354, 31 USPQ 2d 1754 (Fed. Cir 1994).

Analysis: Claims 1-14 found to be in technological art since the invention is to be practiced by using a computer. Each of the claims is disclosed by applicant as being a “method of building database in an exchange system”. Since the claims are each a series of steps to be performed on computer the process must be analyzed to determine whether they are statutory under 35 U.S.C. 101.

Examiner believes that the claims are *program per se* and are no more than manipulation of data and producing a useful results. Further the claims are just merely an abstract idea for building a data base and no involvement of computer medium so that it functionality can be realized for enablement. Thus, claims 1-14 are non-statutory and rejected under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2124

Claims 1-41 are rejected under 35 U.S.C. 102(b) as being anticipated by *McGauley* USPN 5,899,998.

Regarding claims 1, 7, 11, 15, 17, 21-23, 27, 33, 37 and 41

McGauley et al teaches:

- receiving metadata including organization information, patient demo-graphic data, and information locator data (column 2, lines 45-58, “each card... on the PDCs”);
- determining a universal person object corresponding to the demo- graphic data (see figures 3 and 5, column 30-42, “ record object... in size”);
- updating the universal person object in accordance with the metadata (column 8, line 60); and
- storing the information locator data so that the information locator data is associated with the universal person object (column 25, line 20-“).

Regarding claims 2-6, 16, 28-32 and 38

McGauley et al teaches:

- searching the database for an existing universal person corresponding to the patient demographic data and determining that there is no existing universal person object corresponding to the patient demographic data (column 9, lines 14-20, “update object... audit fields 247” and lines 35-41, “ is to identify... independent database”);and
- creating the universal person object corresponding to the patient demo-graphic data (column 4, lines 16-20, “object may be created...”).

Art Unit: 2124

Regarding claims 8, 12, 18 and 34

McGauley et al teaches:

- determining if a pointer exists in the primary database, the pointer indicating a remote database in a remote domain (column 29, line 36”), and
- if the pointer exists, correlating the query against the remote database in the remote domain (column 3, lines 10-27, independent PDC-POS... less expensive”).

Regarding claims 9, 10, 13, 14, 19, 20, 24-26, 35, 36, 39 and 40

McGauley et al teaches:

- presenting correlation results to the provider (column 9, lines 9-12, “it also assure the accurate...”); and
- receiving constraints and parameters from the provider, the constraints and parameters for directing the retrieving of the locator data (column 9, lines 15-21).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- USPN 5924074
- USPN 6519601
- USPN 5574828

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri, Primary Examiner whose telephone number is 703-305-0282. The examiner can normally be reached on M-F 8:30-5:00 PM.

Art Unit: 2124

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANIL KHATRI
PRIMARY EXAMINER